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267 NLRB No. 126

D--1080  
Virgie, KY

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SUN COAL COMPANY, INC.

and

Case 9--CA--19425

SOUTHERN LABOR UNION,  
LOCAL NO. 482

DECISION AND ORDER

Upon a charge filed on 11 March 1983 by Southern Labor Union, Local No. 482, herein called the Union, and duly served on Sun Coal Company, Inc., herein called Respondent, the General Counsel of the National Labor Relations Board, by the Regional Director for Region 9, issued a complaint on 26 April 1983 against Respondent, alleging that Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Copies of the charge and the complaint and notice of hearing before an administrative law judge were duly served on the parties to this proceeding. Respondent failed to file an answer to the complaint.

On 17 June 1983 counsel for the General Counsel filed directly with the Board a Motion for Summary Judgment, with a memorandum attached. Subsequently, on 22 June 1983, the Board

issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. Respondent did not file a response to the Notice To Show Cause and, therefore, the allegations of the Motion for Summary Judgment stand uncontroverted.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Summary Judgment

Section 102.20 of the National Labor Relations Board's Rules and Regulations provides:

The respondent shall, within 10 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

The complaint and notice of hearing served on Respondent stated that unless an answer was filed within 10 days of service of the complaint, all of the allegations in the complaint would be deemed to be admitted to be true and would be so found by the Board. Further, according to the uncontroverted allegations of

the Motion for Summary Judgment, on 6 June 1983 counsel for the General Counsel, by mail, notified Respondent of its obligation to file an answer and advised that a motion for summary judgment would be made if an answer was not filed by 13 June 1983.

Respondent did not file an answer or make any other reply to this letter or to the complaint. Further, Respondent has not filed any response to the Notice To Show Cause.

No good cause for failure to file an answer having been shown, in accordance with the rule set forth above, the allegations of the complaint are deemed to be admitted. Accordingly, we find as true all the allegations of the complaint and grant the Motion for Summary Judgment.

On the basis of the entire record, the Board makes the following:

#### Findings of Fact

##### I. The Business of Respondent

Sun Coal Company, Inc., is, and has been at all times material herein, a Kentucky corporation engaged in the mining and processing of coal, with an office and place of business in Virgie, Kentucky. In the course and conduct of its operations during the 12 months preceding issuance of the complaint, a representative period, Respondent sold and shipped from its Virgie, Kentucky, facility products, goods, and materials valued in excess of \$50,000 directly to other nonretail enterprises located within the State of Kentucky, including Chapperal Coal,

Inc. Those enterprises, in turn, meet the Board's annual direct outflow standard for asserting jurisdiction over such nonretail enterprises.

We find, on the basis of the foregoing, that Respondent is, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction herein.

## II. The Labor Organization Involved

Southern Labor Union, Local No. 482, is, and has been at times material herein, a labor organization within the meaning of Section 2(5) of the Act.

## III. The Unfair Labor Practices

On or about 28 January 1983 Ronald Newsome, Respondent's president, a supervisor within the meaning of Section 2(11) of the Act and Respondent's agent within the meaning of Section 2(13) of the Act, threatened to discharge employees who spoke with the president of another local union. On or about 4 February 1983 Newsome threatened to discharge employees who spoke with a union official before first speaking with him. Finally, on or about 7 February 1983 Newsome threatened employees with closure of the mine if they failed to elect a new union president.

We find that, by the aforesaid conduct, Respondent has interfered with, restrained, and coerced, and is interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, and thereby did

engage in, and is engaging in, unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the Act.

#### IV. The Effect of the Unfair Labor Practices Upon Commerce

The activities of Respondent set forth in section III, above, occurring in connection with its operations described in section I, above, have a close, intimate, and substantial relationship to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. The Remedy

Having found that Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8(a)(1) of the Act, we shall order that it cease and desist therefrom and take certain affirmative action as set forth below designed to effectuate the purposes and policies of the Act.

The Board, upon the basis of the foregoing facts and the entire record, makes the following:

#### Conclusions of Law

1. Sun Coal Company, Inc., is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.
2. Southern Labor Union, Local No. 482, is a labor organization within the meaning of Section 2(5) of the Act.
3. By the acts described in section III, above, Respondent has interfered with, restrained, and coerced its employees in the

exercise of the rights guaranteed them by Section 7 of the Act, and thereby has engaged in unfair labor practices within the meaning of Section 8(a)(1) of the Act.

4. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

#### ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Sun Coal Company, Inc., Virgie, Kentucky, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Threatening to discharge employees who speak with an officer of another local union.

(b) Threatening to discharge employees who speak with a union official before speaking to Respondent.

(c) Threatening employees with closure of the mine for failing to elect a new union president.

(d) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Post at its Virgie, Kentucky, facility copies of the attached notice marked "'Appendix.'"<sup>1</sup> Copies of said notice, on forms provided by the Regional Director for Region 9, after being duly signed by Respondent's representative, shall be posted by Respondent immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that said notices are not altered, defaced, or covered by any other material.

(b) Notify the Regional Director for Region 9, in writing, within 20 days from the date of this Order, what steps have been taken to comply herewith.

Dated, Washington, D.C. 26 August 1983

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Howard Jenkins, Jr.,           Member

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Don A. Zimmerman,           Member

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Patricia Diaz Dennis,       Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

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<sup>1</sup> In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "'POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD'" shall read "'POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD.'"

## APPENDIX

## NOTICE TO EMPLOYEES

Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

WE WILL NOT threaten to discharge employees who speak with an officer of another local union.

WE WILL NOT threaten to discharge employees who speak with a union official before speaking with us.

WE WILL NOT threaten employees with closure of the mine for failing to elect a new union president.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them by Section 7 of the Act.

SUN COAL COMPANY, INC.

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(Employer)

Dated ----- By -----  
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, Federal Office Building, Room 3003, 550 Main Street, Cincinnati, Ohio 45202, Telephone 513--684--3663.